

Updated Central Bank of Ireland PCF List – Required Actions and Filings

Following our previous client update¹ on the Central Bank of Ireland's ("Central Bank") Notice of Intention setting out proposed changes to PCF categories (the "Notice of Intention"), new Fitness and Probity Regulations² were published on 8 April 2022 to give effect to new categories of PCFs under its fitness and probity ("Fitness and Probity") framework. As detailed in the related Feedback Statement³, the Central Bank has considered and taken into account the feedback received on the Notice of Intention and has made some minor amendments to the PCF list as set out in the Notice of Intention.

In short, the PCF list has been amended as follows:

- Non-Executive Directors (formerly PCF-2) are identified under separate PCF designations, depending on whether they are independent (PCF-2B) or non-independent (PCF-2A);
- The role of Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation (PCF-15) has fallen away and is replaced with either the existing Head of Compliance (PCF-12) or the new Head of Anti-Money

Laundering and Counter Terrorist Financing (PCF-52);

- The role of Head of Investments (PCF-31) has been discontinued, defaulting to Chief Investment Officer (PCF-30);
- Branch Managers in all cases will be a PCF role (PCF-16), including non-EEA branches; and
- All roles relating to the chairing of a board or committee have been amended to refer to the "Chair" as opposed to "Chairman".

The Central Bank has confirmed that the split of the PCF-2 role will not result in any additional or changed requirements regarding the appointment of independent non-executive directors but rather is for greater clarity and record-keeping purposes only. Importantly, the Central Bank has confirmed that existing definitions and criteria within sectoral requirements, codes and guidelines on which independence is assessed are not changing (although it considers that independence criteria contained within its Codes of Conduct⁴ represent best practice).

Similarly, the Central Bank has confirmed that the replacement of PCF-15 with either PCF-12 or PCF-52 does not result in any additional or changed requirements regarding the appointment of separate individuals to PCF-12 or PCF-52. The onus is on firms to determine whether the role meets the substance of PCF-52 and it is possible that certain firms may not require a specific PCF-52.

¹ <https://maples.com/en/knowledge-centre/2021/9/central-bank-of-ireland-proposes-changes-to-pcf-categories-in-regulated-firms>

² [https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/fitness-probity/regulated-financial-service-providers/amending-regulations-2022-\(si-no-169-of-2022\).pdf?sfvrsn=2](https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/fitness-probity/regulated-financial-service-providers/amending-regulations-2022-(si-no-169-of-2022).pdf?sfvrsn=2)

³ <https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/fitness-probity/regulated-financial-service-providers/feedback-statement-to-notice-of-intention.pdf?sfvrsn=2>

⁴ <https://www.centralbank.ie/regulation/how-we-regulate/codes>

Action Required

Firms should consider the impact of the changes on their existing PCF role holders and assess whether any individuals are performing the above listed roles as at 5 April 2022, noting that such individuals are subject to the Fitness and Probity Standards⁵ ("Standards").

In Situ Process and Deadline

All individuals currently occupying PCF-2 roles will automatically be re-designated as PCF-2A unless firms submit confirmation of any PCF-2B designations to the Central Bank.

For persons performing PCF-2B, PCF-16 and / or PCF-52 as at 5 April 2022, an in situ process will be available shortly on the Central Bank's Online Reporting System ("ONR") and an individual questionnaire ("IQ") will not be required to be completed.

For PCF2-B where the individual held a PCF-2 role prior to 5 April 2022, and for PCF-12 and / or PCF-52, where the individual held PCF-15 prior to 5 April 2022, due diligence is not required to be completed. In this case a completed in situ return must be uploaded via the ONR.

Where a firm has individuals performing PCF-16 in a non EEA country, or performing a PCF-52 role who had not previously been approved by the Bank, firms must perform the required due diligence on these PCF role holders as set out in the Fitness and Probity Guidance⁶ and complete the in situ return via the ONR confirming the following:

⁵ <https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/fitness-probity/regulated-financial-service-providers/fitness-and-probity-standards.pdf?sfvrsn=6>

⁶ <https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/authorisation/fitness-probity/guidance-on-fitness-and-probity-standards.pdf?sfvrsn=10>

- Names and identification details of the PCFs;
- That the firm has performed the necessary due diligence as detailed in the Fitness and Probity Guidance, which includes the following:
 - The firm is satisfied on reasonable grounds that these persons are compliant with the Standards; and
 - The firm has obtained each person's written agreement to abide by the Standards.

All in situ filings must be made by 3 June 2022.

New Appointments

Persons proposed for these roles after 5 April 2022 must submit PCF applications via the normal process – that is the submission of an IQ via the ONR.

How Maples Can Help

Our dedicated Financial Services Regulatory team has specialist experience in assisting clients with Central Bank PCF approvals and related due diligence and can assist with making the in situ filings in advance of the Central Bank's filing deadline of 3 June 2022.

Further Information

Further information on our Irish Financial Services Regulatory Group, and the services we provide is available on our website⁷ and in our brochure⁸.

For further details, please liaise with the team below, or your usual Maples Group contact:

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⁷ <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

⁸ <https://maples.com/-/media/files/pdfs/articles-and-chapters/financial-services-regulatory-group---core-services.pdf>

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